



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 19, 2005

Ms. Julia Vaughan  
Executive Director  
Board of Law Examiners  
P.O. Box 13486  
Austin, Texas 78711-3486

OR2005-04369

Dear Ms. Vaughan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 224546.

The Board of Law Examiners (the "BLE") received a request for information relating to the July 2004 Texas Bar Exam, including all written guidelines for acceptable answers provided to graders by each board member as part of the grading process for the exam. You state that you have released some of the requested information. However, you claim that the written guidelines for acceptable answers are not subject to the Act and, in the alternative, are excepted from public disclosure pursuant to section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.<sup>1</sup> We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (allowing interested party to submit comments indicating why requested information should or should not be released).

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

In Open Records Letter No. 92-267 (1992), this office addressed whether bar exam scores held by the BLE are subject to the Act. In that ruling, we noted that section 82.003 of the Government Code generally provides that the BLE is subject to the Act. In an order issued on July 7, 1987, the Texas Supreme Court clarified section 82.003 by exempting from disclosure under the Act “[g]rades and examination results of any person.”<sup>2</sup> *Order of the Supreme Court of Texas* (Tex. July 7, 1987) (on file with the Open Records Division of the Office of the Attorney General). Therefore, in Open Records Letter No. 92-267, this office held that any information coming under section 82.003(b) or the exemptions listed in the Supreme Court’s July 7, 1987 order was not subject to the Act and the BLE need not seek a ruling from this office regarding whether it must release such information.

Part 1(c) of the order of the Supreme Court exempts from disclosure, among other things, “[m]odel answers, scoring keys or other aids.” You assert that the submitted information consists of guidelines for acceptable answers for the July 2004 Texas Bar Exam that fall within the exemptions listed in Part 1(c) of the order of the Supreme Court. Upon review of your assertions and the submitted information, we agree that this information is subject to the July 7, 1987 order of the Supreme Court. Therefore, the submitted information is not subject to the Act, and need not be released to the requestor. Based on this finding, we need not reach your argument under section 552.101 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the

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<sup>2</sup> An applicant may request his or her own grades under the supreme court’s order, but the grades may be withheld pending the resolution of an investigation into the applicant’s moral character and fitness.

Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Amanda Crawford". The signature is fluid and cursive, with the first name "Amanda" and last name "Crawford" clearly distinguishable.

Amanda Crawford  
Assistant Attorney General  
Open Records Division

AEC/sdk

Ref: ID# 224546

Enc. . Submitted documents

c: Mr. Robert Henneke  
8701 Bluffstone Cove #9302  
Austin, Texas 78759  
(w/o enclosures)